



# **New York State Defenders Association, Inc.**

## ***Public Defense Backup Center***

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### **Resolution Endorsing the New York State Office of Indigent Legal Services Criteria and Procedures for Determining Assigned Counsel Eligibility**

WHEREAS, NYSDA, as part of its mission to improve the quality and scope of public defense representation, has long sought to end a persistent pattern of constitutionally defective practices in the determination of potential clients' financial eligibility for appointed representation, and

WHEREAS, NYSDA released a report in 1994 representing the first comprehensive, statewide examination of eligibility processes, which identified problems that seriously undermined the fundamental state and federal right to mandated representation ("Determining Eligibility for Appointed Counsel in New York State: A Report from the Public Defense Backup Center"), and

WHEREAS, while some details contained within that report changed over time, the identified problems continued, and

WHEREAS, NYSDA's report has served as a resource for other examinations and critiques of public defense services in New York State, including annual reports of the NYS Commission on Judicial Conduct and the final report in 2006 of then-Chief Judge Judith S. Kaye's New York State Commission on the Future of Indigent Defense Services, and

WHEREAS, NYSDA has long recognized the important role of standards in improving public defense representation by using and publicizing a wide variety of national and state standards in many contexts; adopting "Standards for Providing Constitutionally and Statutorily Mandated Legal Representation in New York State" in 2004 and its Client Advisory Board's "Client-Centered Representation Standards" in 2005; and commenting on drafts or otherwise assisting in standards developed by other organizations, including the New York State Bar Association, the American Bar Association, and the New York State Office of Indigent Legal Services (ILS), and

WHEREAS, in 2015, ILS was designated by the State of New York to implement the settlement of the class action lawsuit *Hurrell-Harring v State of New York*, and as part of fulfilling that responsibility undertook its own comprehensive examination of eligibility processes across the state, and

WHEREAS, ILS then developed, with the assistance of NYSDA and others, and has now promulgated "Criteria and Procedures for Determining Assigned Counsel Eligibility," consistent with the agreed-upon terms of the *Hurrell-Harring* settlement relating to eligibility determinations and pursuant to its authority under Executive Law § 832(3)(c), and

WHEREAS, implementation of those ILS standards to guide courts in determining eligibility will improve the fairness and efficiency of eligibility determinations across the state, benefitting potential public defense clients, the judiciary, and justice,

**IT IS RESOLVED,**

That the New York State Defenders Association fully endorses the "Criteria and Procedures for Determining Assigned Counsel Eligibility" promulgated by ILS on April 4, 2016 and the timely implementation thereof.

**ADOPTED BY THE BOARD OF DIRECTORS OF THE NEW YORK STATE DEFENDERS  
ASSOCIATION**

April 29, 2016

Albany, NY